MANUFACTURED HOMES' LEGISLATIVE REVIEW RECOMMENDATIONS REPORT

Presented to
Honourable Moe Sihota
Minister of Labour and Consumer Services

November 1992

by Rick Kasper, MLA
Malahat-Juan de Fuca

Assisted by
P.A. Research Consultants Ltd.

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Executive Summary

In July 1992, the Hon. Moe Sihota, Minister of Labour and Consumer Services, commissioned Mr. Rick Kasper, M.L.A. to conduct a legislative review of issues affecting manufactured homes situated in rental parks in B.C. Specific issues noted by the Minister for review included:

- annual rent increases;
- rent reviews;
- payment for park improvements;
- security of tenure;
- restrictions on owners selling homes;
- plain language standard lease and rental agreements;
- feasibility of provincial 'one-stop' service.

The review was conducted between July and November 1992.

During the course of this review, two overall themes emerged: the unique situations that affect manufactured home owners located on rental sites; and the insecurity and vulnerability felt by many manufactured home and park owners about the future. This report will attempt to address these specific themes so that home and park owners will be able to face the future with the knowledge that their respective rights and obligations will be identified and respected.

Evidence was collected in four stages:

1. review relevant literature;
2. conduct hearings around the Province;
3. receive written submissions;
4. create and distribute a written questionnaire.

There are numerous acts, provincial as well as federal, which greatly affect the rights of many manufactured home and park owners. Because of the number of acts and ministries involved, most manufactured home and park owners do not have a clear view of what government policy is, nor for that matter which ministry is responsible.

1,354 people participated at public meetings, 587 people wrote submissions, and 89 respondents completed a survey noting their concerns about how existing legislation affects manufactured home tenancy in rental parks. The majority of responses were from the lower mainland, Vancouver Island and the Okanagan. Priorities differed from region to region throughout the Province. However, regardless of whether a concern was presented at a public meeting, in a written submission or on a survey, the major issues of concern were:

- park dispute resolution committees;
- limits on pad rent increase;
- standardized park rules and rental agreements;
- service levels;
- security of tenure versus park conversion.

Recommendations of the review are as follows:

- The Mediation and Dispute Resolution Committee should be recognized in the *Residential Tenancy Act* as the first step towards resolving disputes between manufactured home owners and manufactured home park owners.
- Financial penalties for violations of the *Residential Tenancy Act* should reflect the severity of the violation.
- Where the arbitration process is activated as a result of a decision of the Mediation and Dispute Resolution Committee, all costs for the Committee ruling and the arbitration should be paid by the losing party of the arbitration.
- The *Residential Tenancy Act* should be modified so that home owners in a manufactured home park can initiate a class action.
- The Mediation and Dispute Resolution Committee should be recognized in the *Residential Tenancy Act* as the first stage to review pad rent increases in manufactured home parks and decisions made by this Committee should be enforceable under the Act.
- A plain language standard lease should be used in all manufactured home parks in British Columbia.
- There should be a park specific approval process where the majority of tenants in a park can establish and/or change existing rules so as to

conform to a provincial plain language standard park rules as proposed by the Mediation and Dispute Resolution Committee.

- No more than 1% of the total cost of a capital improvement expense should be placed on the monthly rental charge.

- The *Residential Tenancy Act* should be amended to note that development or entrance fees are a one-time only charge and to ensure that if a manufactured home park is converted to another land use, then the initial development or entrance fee is refunded to the manufactured home owner occupying the space at the time of conversion.

- The Provincial government should not become directly involved in offering a development fee subsidy program to private developers of manufactured home parks.

- Manufactured home park owners must give a minimum of 365 days notice of termination on conversion of an existing park to another use.

- Termination notice may not be served until all local government zoning and approval permits have been obtained.

- Financial compensation of up to $10,000 for actual and reasonable moving costs incurred should be paid to the home owner by the park owner upon termination of park use or conversion to another land use.

- The *Residential Tenancy Act* should be amended to ensure that tenants of manufactured home parks are notified of the zoning category of their park when entering into a lease rental agreement.

- The *Residential Tenancy Act* should be amended to ensure that there is a procedure in place to allow residents in large parks, in consultation and agreement with the owner, to set a portion of the park aside for 55 years and older while also making provision for families with children.

- The Mediation and Dispute Resolution Committee should work jointly to clearly identify what constitutes unsuitability of a prospective tenant.

- The requirement for the Capital Tax for Co-operative Development should be reviewed by the Ministry of Finance and Corporate Relations.

- An inventory of available Crown land suitable for manufactured home park development should be undertaken in regions of the Province where rental pad demand is great.

- The Ministry of Finance and Corporate Relations should study the benefits and costs of providing government loan guarantees for the creation of co-operative manufactured home parks.

- The S.A.F.E.R. program should be extended to include manufactured home owners whose pad rent is in excess of 30% of their income.

- The British Columbia Renters Tax Credit program should be extended to manufactured home owners who rent pads.

- The Government should not get involved in a reverse mortgage scheme for elderly manufactured home residents at this time.

- The Ministry of Aboriginal Affairs, the Federal Government and the aboriginal community should be encouraged to discuss ways and means for manufactured home owners who reside on native land to be fully protected by the *Residential Tenancy Act* without infringing on the rights of native self government.

- With the exception of the Manufactured Home Registry, chattels and mortgages, all other legislation should be administered by one ministry.

- There should be a gazette of arbitration decisions made available for park owners and pad renters.

- The Manufactured Home Registry should be automated to facilitate computer analysis and the development of a management information system.

- The British Columbia Assessment Authority should create a list of existing rental parks and pad sites for rent available noting names and addresses of current owners.

- If there are changes to the *Residential Tenancy Act* a pamphlet noting rights, rules and responsibilities should be created.

- The Ministry of Municipal Affairs should set standard by-law and zoning rules and use the *Municipal Act* to have municipalities and regional governments conform to this standard.

- The Ministry of Labour and Consumer Services should do an analysis of security deposits and either eliminate them entirely or define a mechanism to use the interest accrued from security deposits from manufactured homes to offset the cost of the Mediation Dispute Resolution Committee.

Contents

Executive Summary ii

Acknowledgments vi

Introduction 1

Methodology 3
- Literature Review 3
- Public Hearings 4
- Submissions 4
- Survey 5

British Columbia Manufactured Homes Environment 7
- Demographics 7
- Legislation 10
- Other Jurisdictions 12

Submission, Public Hearing & Survey Results 14
- Public Hearings 14
- Submissions 15
- Survey Results 18
- Summary 21

Issues 22
- Mediation and Dispute Resolution Committee 22
  - Recommendation 23
- Residential Tenancy Act 23
  - Recommendation 24
- Rent Review 24
  - Recommendation 25
- Standard Lease/Rental Agreements 25
  - Recommendation 25
- Standard Park Rules 26
  - Recommendation 26
- Park Improvement Costs 26
  - Recommendation 27
- Development/Entrance Fees 27
  - Recommendation 28
- Security of Tenure 28
  - Recommendation 29
- Disclosure Requirements 29
  - Recommendation 30
- 55 Years and Older Parks 30
  - Recommendation 31
- Right to Sell/Rent Homes 31

Recommendation 32
Co-operative and Strata Title Developments 32
Recommendation 33
Shelter Aid for Elderly Renters (S.A.F.E.R.) 33
Recommendation 34
Renters Tax Credit 34
Recommendation 34
Reverse Mortgages 34
Recommendation 35
Native Land Issues 35
Recommendation 35
Separate Act and One Ministry 36
Recommendation 36
Gazette/Notice of Arbitrations 36
Recommendation 36
Automation of the Manufactured Home Registry 37
Recommendation 37
Creation of a Current List of Parks and Rental Pads 37
Recommendation 37
Residential Tenancy Branch Pamphlet 38
Recommendation 38
Zoning 38
Recommendation 38
Security Deposit 39
Recommendation 39

Conclusion **40**
Recommendations 40

1. Introduction

In July 1992, the Hon. Moe Sihota, Minister of Labour and Consumer Services, commissioned Mr. Rick Kasper, M.L.A. to conduct a legislative review of issues affecting manufactured homes situated in rental parks in British Columbia. Specific issues noted by the Minister for review included:

- annual rent increases;
- rent reviews;
- payment for park improvements;
- security of tenure;
- restrictions on owners selling homes;
- plain language standard lease and rental agreements;
- feasibility of provincial 'one-stop' service.

Initially, to address this commission, Mr. Kasper was able to call upon his own and Ministry staff. As well, P.A. Research Consultants Ltd. was contracted by the Ministry of Labour and Consumer Services to provide professional assistance in the research, public hearing process, analysis and write-up of the report. The review was conducted between July and November 1992.

During the course of this review, two overall themes emerged: the unique situations that affect manufactured home owners located on rental sites; and the insecurity and vulnerability felt by many manufactured home and park owners about the future. This report will attempt to address these specific themes so

that home and park owners will be able to face the future with the knowledge that their respective rights and obligations will be identified and respected.

2. Methodology

It was determined after an in-depth analysis of the assigned mandate that the most reliable and cost-effective means of obtaining the necessary evidence was in four stages:

1. review relevant literature;
2. conduct hearings around the Province;
3. receive written submissions;
4. create and distribute a written questionnaire.

2.1 Literature Review

The literature review focused on the report of the Manufactured Homes Advisory Committee 1992, the Task Force on Manufactured Homes 1990, the Minority Report of the Task Force of the Manufactured Homes, and the Audain report done in 1975. Newspaper vertical files and microfilm articles were also reviewed. Legislation from other provinces was also reviewed. The literature review identified areas of concern in the manufactured home environment. Many of these concerns were used for:

- background information for public hearings;
- incorporation into the questionnaire.

2.2 Public Hearings

The location and dates of the public meetings and the request for submissions were initially solicited by a number of press releases issued by the Ministry of Labour and Consumer Services. Further to this initial press release, park owners and members of the manufactured home owners associations were contacted. As well, all M.L.A.s were sent a letter requesting a list of parks in their respective constituencies, and were sent notice of the hearings and submission request.

The specific results of the hearings are in Chapter 4.

2.3 Submissions

Submissions were requested and a tentative dead-line for receipt of submissions was set at 18 September 1992. Because submissions continued to arrive well after the 18th, submissions were collected and analysed up to 1 November 1992.

All written submissions mailed in, as well as those handed in at hearings, were evaluated by P.A. Research Consultants Ltd. A total of 587 written submissions were received. The various issues raised were categorized under the same headings as the issues from the public hearings, and recorded.

2.4 Survey

Using background information from previous studies and direction from the Ministry, a 30 question survey was designed for the target groups of manufactured home owners and manufactured home park owners and distributed on a random basis. Returns were requested no later than 18 September 1992. This date was also extended to 1 November 1992.

To ensure that the sampling technique accounted for the distribution of parks and manufactured homes throughout the Province, as well as the varying park sizes (number of manufactured homes in a park), the Probability Proportionate to Size (PPS) sampling technique was employed. Thus each manufactured home and each manufactured home park, regardless of size or region, had an equal chance of being surveyed. 360 questionnaires with return self-addressed and stamped envelopes were distributed to manufactured home and park owners.

The lack of a definitive list of manufactured homes and parks, and of the numbers of manufactured homes in a park, affected the PPS method. While the percentages of returns per region indicated that the PPS method was effective, 85 surveys (23% of the total sent) were undelivered and returned to sender by Canada Post, which clearly indicates that the list is both incomplete and inaccurate. 89 questionnaires (32% of surveys delivered) were completed and returned as of 1 November 1992.

The returned questionnaires were analysed using the University of Victoria main-frame computer. The Statistical Package for the Social Sciences (SPSSX)

software was employed. The specific results are discussed in Chapter 4.

3. British Columbia Manufactured Homes Environment

3.1 Demographics

Manufactured home owners, unlike most other renters in the Province, are extremely committed to their 'rented' location as they have a large financial commitment to their manufactured home, pay tax based on the assessment value of their property, and cannot simply move on notice without incurring substantial cost. For these reasons, once a manufactured home is situated in a park, that home is usually sold on site if there is a change in ownership.

There are many estimates and very few hard numbers as to just how many manufactured homes there actually are in the Province. To demonstrate how confusing the numbers can be, the most recent study for the Ministry of Municipal Affairs, Recreation and Housing noted that there were 69,277[1] manufactured homes registered as of 31 March 1992. Yet the figures supplied by the Manufactured Home Registry note that there are 66,724, a discrepancy of 2,553. See Table 3.1.

To add further confusion and misunderstanding is the lack of correlation between Canada Census data on manufactured homes with either of the aforementioned numbers. In an attempt to get a feel for just how many manufactured homes there were in the Province, our study staff contacted the Manufactured Home

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[1] Manufactured Housing Study, Kennedy Consulting Inc., September 1992, page 24.

Table 3.1: Manufactured Homes Registrations, Transfers & Transportations 1978 to 1992

YEAR	REGISTRATIONS	TRANSFERS	TRANSPORTATIONS
1978	34,505	7,348	7,042
1979	7,710	12,794	8,659
1980	4,966	15,872	8,923
1981	5,279	18,395	9,496
1982	2,199	10,657	5,736
1983	2,406	11,890	6,198
1984	1,404	10,295	4,980
1985	1,167	9,893	4,532
1986	823	9,050	4,028
1987	957	9,874	3,887
1988	1,071	10,501	3,617
1989	1,507	11,936	3,902
1990	1,575	9,666	3,348
1991	1,089	1,142	2,257
1992	66	969	312
Total	66,724	150,282	76,917

Registry and received a list of parks in British Columbia (1983 the last year available) noting location and pad sites. To this list names of parks and number of pad sites from the following sources were added:

- from each Member of the Legislative Assembly and their constituency assistants a list of parks in their ridings;
- list of park members from the Park Owners Association;
- list of parks from membership lists of the United Home Owners Association.

As Table 3.2 indicates, we were only able to identify 25,000 of the widely quoted estimate of 40,000 pad sites located in manufactured home parks in British Columbia. In a further attempt to establish the number and location of pad sites in the Province, the British Columbia Assessment Authority was contacted. While the British Columbia Assessment Authority does have the capability to identify just how many pad sites there are and who lives in each one, it has

unfortunately not developed such a list. However, a computer program could be created from their main data-base at an estimated cost of $8,000. Unfortunately there was neither the time nor the money available to have the British Columbia Assessment Authority create this list for this review.

Table 3.2: Park and Pad Site Locations in B.C.

	PARKS	PADS
MAINLAND	105	6,177
CENTRAL	56	1,866
SOUTH-EAST	81	2,298
OKANAGAN	118	6,222
NORTH	92	4,138
VANCOUVER ISLAND	110	4,367
TOTAL	562	25,068

The discrepancy between the list created for this review and the list of existing sites used by the Kennedy study indicates that until a comprehensive and accurate list of pad sites is created by the British Columbia Assessment Authority, there is no way to fully appreciate the magnitude of this housing market segment. If 80% of manufactured homes are estimated to be located in rental parks,[2] then there should be approximately 50,000 pad sites located in rental parks in British Columbia. As noted above, we can only account for 25,068 of these sites. Therefore, we conclude that all the estimates used to date are suspect and that until the British Columbia Assessment Authority list is compiled, they should be used cautiously.

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[2] Manufactured Housing Study, Kennedy Consulting Inc., September 1992, page 50.

3.2 Legislation

Manufactured home and park owners are affected by a number of British Columbia Statutes including the:

- *Residential Tenancy Act, 1984;*
- *Manufactured Home Act, 1979;*
- *Motor Dealer Act, 1979;*
- *Municipal Act, 1979;*
- *Human Rights Act;*
- *Building Standards Act;*
- *Personal Property Security Act.*

Different Acts apply at different stages from the construction of the manufactured home to the transport and siting of the home on a pad site. For example, manufactured homes that are on rental property are viewed for mortgage purposes as 'chattels' and as such are required by the *Manufactured Home Act of 1979* to be registered with the Manufactured Home Registry which is administered by the Ministry of Finance and Corporate Relations, whereas the sale of a manufactured home is controlled by the *Motor Dealer Act* which is administered by the Ministry of Labour and Consumer Services. Given the number of Provincial acts and the different ministries involved in administering each portion of the specific acts, and the adherence of clear policy considerations, it is no wonder that many participants in this market segment of the housing industry feel bewildered and overwhelmed.

To further confuse matters, the Federal Government of Canada Ministry of Indian and Northern Affairs and Canada Mortgage and Housing Corporation also have jurisdiction over certain issues that affect many park and home owners. Home owners whose parks are located on Native Reserves are not protected by many provisions of Provincial legislation. Similarly, manufactured homes on private land with foundations are eligible for many Canadian Mortgage and Housing Corporation programs not available for an identical manufactured home found on rental property.

Once a manufactured home is registered and located on a rental site, perhaps the most important provincial act that affects the day-to-day lives of participants in this housing market group is the *Residential Tenancy Act of 1984*. This Act deals specifically with the terms and terminations of tenancy agreements and rent increases and provides for arbitration services if there is a conflict between home owner and park operator. The second most important provincial act affecting manufactured home owners and park operators is the *Human Rights Act* which notes that it is unlawful for park operators to refuse rental space on the basis of age or family status with the notable exception of parks established for residents who are 55 years or older. The next most important act affecting many home owners in park settings is the *Indian Act* which notes that all Indian Reserve land is, for legal purposes, treated as if it were Crown land and, as such, is not subject to portions of the *Residential Tenancy Act* administered by the Residential Tenancy Branch.

In summary, there are numerous acts, provincial as well as federal, which greatly affect the rights of many manufactured home and park owners. Because of the

number of acts and ministries involved, most manufactured home and park owners do not have a clear view of what government policy is, nor for that matter which ministry is responsible.

3.3 Other Jurisdictions

A review of legislation affecting manufactured homes in rental parks across Canada notes that British Columbia is consistent with other provinces. That is, most provinces have residential tenancy legislation with provision for dispute resolution; in most provinces different ministries are responsible for different aspects of manufactured home tenancy; and no province provides Crown land for siting manufactured home parks.

Where British Columbia differs from other Canadian jurisdictions is in:

- payment of real property taxes by manufactured home owners;
- resolution mechanisms for non-monetary disputes;
- rent increase controls;
- discrimination by age or family status;
- arbitrator decision notification.

Only New Brunswick and British Columbia tax manufactured homes on their assessed value. Many other jurisdictions use the dispute resolution tools of conciliation and mediation in addition to the arbitration used in British Columbia. Rent increase controls vary by province. Some provinces go as far as to specify the limit of increase and have formalized rent review hearings while others, like British Columbia, do not specify a limit to rent increases. Provinces deal with the human rights issues of discrimination by age and/or family status

in a variety of ways; however, most have provision for seniors-only parks and half the provinces have provision for family parks. Four provinces ensure that tenants are informed of arbitrator decisions.

4. Submission, Public Hearing & Survey Results

4.1 Public Hearings

Hearings were held in nine centres in the Province. The communities selected, and numbers who attended the hearings were:

Table 4.1: Attendance at Public Hearings September 1992

DATE	LOCATION	# ATTENDING
8 Sept.	Surrey	223
8 Sept.	Langley	180
9 Sept.	Quesnel	1
9 Sept.	Prince George	34
10 Sept.	Kamloops	43
11 Sept.	Kelowna	160
11 Sept.	Penticton	200
16 Sept.	Nanaimo	203
16 Sept.	Victoria	310
	Total	1,354

Each hearing was of at least two hours duration. No hearing was concluded until after every individual in attendance had an opportunity to speak. Notes were taken, listing what each speaker had to say and written submissions were collected.

Perhaps the most striking feature of the public hearing process was the difference in number of participants and the issues of concern according to where the hearings were held. In the lower mainland, large rent increases and therefore security of tenure were the major issues. In the Cariboo, rent increases were not an issue. In the Okanagan, lack of services provided to home owners on Indian land was paramount. On Vancouver Island, zoning and the lack of alternative sites were the issues. Simply put, where people stood depended on where they sat. By contrast, at virtually each location, the majority of persons attending were retired.

4.2 Submissions

Submissions were requested by individual letter and press release. By 1 November 1992, 383 individual and 204 joint submissions were received. The overwhelming majority of submissions were from residents located on the lower mainland, Vancouver Island and the Okanagan. The following table illustrates the distribution of written submissions by region:

Table 4.2: Submissions by Region

	INDIVIDUAL	JOINT
MAINLAND	130	1
CENTRAL	8	0
SOUTH-EAST	8	0
OKANAGAN	85	203
NORTH	15	0
VANCOUVER ISLAND	137	0
TOTAL	383	204

1,287 issues were identified as concerns from the 383 written submissions. The following table lists major points covered by the submissions:

Table 4.3: Submissions by Issue

ISSUE	FREQUENCY
Rent controls	361
Services	224
Standard park rules	109
Sales collusion	85
S.A.F.E.R.	84
Park committees	75
Zoning	74
Conversion	70
Tenure	37
Crown land availability	26

As demonstrated by the list of issues, a form of 'pad rent increase control' was by far the most dominant issue. The second issue, services, was seen by many writers as being related to rent: specifically, many pad rents increased while park services were cut back. The result for many manufactured home owners was both an official rent increase and an unofficial increase (in many cases as large or larger than the official rent increase) in service charges such as cablevision, garbage disposal, etc.

The major non-monetary concern was the establishment and consistent application of 'park rules'. Most submissions noted that park rules were arbitrarily imposed and inconsistently applied.

There were several complaints about 'sales collusion' on the part of manufacturers, dealers, real estate agents, park owners and operators. The result for consumers was high prices and limited choice.

Expansion of eligibility of the 'S.A.F.E.R.' program to include manufactured home owners who spend 30% of their income on pad rent was viewed by those who wrote letters as the next most important issue.

Reference was made in several letters to 'park committees' which reflect the desire to have local park committees of home owner representatives and park operators as the first level of mediation for disputes vis-a-vis pad rent increases, service levels and the establishment and application of park rules.

'Zoning', 'conversion', 'tenure' and the availability of 'Crown land' for manufactured home park sites all deal primarily with security of tenure. Most submissions on this subject wanted local governments to zone manufactured home parks and wanted better notice provisions if a park was being converted to another land use. Many writers wanted the first option to purchase a park if it was to be converted and the opportunity to purchase or gain access to surplus Crown land.

When one combines the issues noted in the public hearings with written submissions, a similar pattern emerges. That is, rent control and standardized rules and services top both lists. Clearly there is a correlation between the issues raised at the public meetings and the concerns expressed in the written submissions. When these are viewed with the results of the survey, this pattern is reinforced.

4.3 Survey Results

As noted in Chapter 2, Methodology, the fundamental problem with extrapolating our survey results to the entire Province is the lack of a reliable data-base of park and pad sites. That is, while the sample drawn was random and therefore free of bias, there is no way of determining if there is a built-in bias in the data-base as only half the estimated pad sites in the Province were identified. Furthermore, 23% of the surveys were not delivered as the addresses were inaccurate or no longer valid. Therefore, no claim is made that this data-base is representative of the entire population or that the results of this survey would be representative of the Province as a whole. However, the results of this survey do corroborate many written and public hearing submissions and, until there is a more accurate data-base available, is the best information available for analysis.

As noted earlier, 89 responses were returned by 1 November 1992. Of the 89 respondents, 73 indicated that they were home owners, 12 noted that they were park operators. Response rates for home owners as a percentage of surveys received (73 of 215) was 34%. Park owner responses rates as a percentage of surveys received (12 of 50) was 24%. Table 4.4 notes the distribution of respondents by region. 45% of manufactured homes in this survey were built in the 1970's while 33% were built in the 1980's. The mean assessed value of manufactured homes in this survey was $39,882. 75% of home respondents had a month-to-month rental agreement while 22% claimed to have a 12-month lease. Monthly pad rent charges ranged from $100 to $500. The mean average rent on a Provincial basis was $271. Most respondents to this survey were older adults without children at home, and no longer in the work force.

Table 4.4: Respondents by Region

Lower Mainland	37
Central B.C.	12
South-Eastern B.C.	6
Okanagan	10
Northern B.C.	5
Vancouver Island	10
No Answer	9
Total	89

When looking at pad rent, year built or assessed value on a region by region basis, however, the predominant pattern is that manufactured homes on the lower mainland and in the Okanagan are newer and, therefore, of higher value. As well, pad rents decrease in cost the more north one resides in the Province. This overall impression was corroborated by submissions made at public hearings.

Most respondents felt that only operating costs should be the basis for rent increases. Park operator responses did not differ greatly from home owner responses to this question. Most respondents felt that park improvement costs should be the responsibility of the park operator and that rent increases should only be allowed once every 12 months. 91% of all respondents, and 97% of home owner respondents, felt that there should be a limit on rent increases. The limit of choice was either cost of living or a fixed amount (dollar and/or percentage).

The manner in which rental disputes should be resolved broke into three major categories:

1. a park renter/owner committee;
2. mediator;
3. government body or 'rentalsman'.

The two most cited responses were the owner/renter committee at 41% and a 'rentalsman' at 34%.

73% of respondents were in favour of a standard rental agreement.

One of the more interesting results was the consensus between home owners and park operators that owners should restrict renters on the basis of pets, children and number of residents.

Perhaps the most striking difference in response to the same question came from home owners and park operators over the conditions and adequate notice for the conversion of a manufactured home park for another land use. 57% of home owners could not conceive of any legitimate reason for the conversion of an existing park while 100% of park operators who responded felt that any reason was satisfactory for the conversion of a park. Similarly, 65% of home owner respondents felt that 12 months was adequate notice while only 20% of park operators agreed that 12 months was adequate; 60% of park operators felt that 6 months was sufficient. Not surprisingly, 94% of home owners felt that financial compensation was in order if a park were converted while 70% of park operators felt financial compensation was in order. 67% of all respondents had no opinion as to how much compensation, if any, a home owner should receive. However, of the 29 valid responses to this question, 27 respondents (93%) felt that moving costs would be appropriate compensation.

4.4 Summary

1,354 people participated at public meetings, 587 people wrote submissions, and 89 respondents completed a survey noting their concerns about how existing legislation affects manufactured home tenancy in rental parks. The majority of responses were from the lower mainland, Vancouver Island and the Okanagan. Priorities differed from region to region throughout the Province. However, regardless of whether a concern was presented at a public meeting, in a written submission or on a survey, the major issues of concern were:

- park dispute resolution committees;
- limits on pad rent increase;
- standardized park rules and rental agreements;
- service levels;
- security of tenure versus park conversion.

In the next chapter these various issues will be discussed and recommendations made.

5. Issues

The following issues were identified by the public hearing, submission and survey process used during this review. Each item will be dealt with individually.

5.1 Mediation and Dispute Resolution Committee

What appears to be missing in British Columbia for both park operators and home owners alike is a formal mechanism for the initial resolution of disputes without having to seek a full arbitration. Used in other jurisdictions and supported in concept by hearing, submission and survey results, is a Mediation and Dispute Resolution Committee. Issues could be communicated and resolved jointly without the need for a formal arbitration. This committee should be recognized in the *Residential Tenancy Act* as the first step to resolve disputes. Membership of the committee should include a member each from the Provincial home and park owners associations and an independent government representative. The committee would be responsible for the establishment of standard park rules, standard lease and rental agreements, review of pad rental increases, establishment of service levels, and the setting of park improvement fees.

5.1.1 Recommendation

The Mediation and Dispute Resolution Committee should be recognized in the *Residential Tenancy Act* as the first step towards resolving disputes between manufactured home owners and manufactured home park owners.

5.2 Residential Tenancy Act

A number of concerns were expressed about the enforcement provisions for violations of the *Residential Tenancy Act*. Specifically, penalties for either landlord or tenant violations should reflect the severity of the violation. Another issue not currently addressed in the *Residential Tenancy Act* is the true cost of arbitrations. Actual arbitration costs have increased while the fee has remained at a token level. Arbitration fees should be increased to more accurately reflect actual cost. Furthermore, where the arbitration process is activated as a result of a decision of the Mediation and Dispute Resolution Committee, all costs for the Committee ruling and the arbitration should be paid by the losing party of the arbitration. Fines and penalties not paid should be placed against the tax notice to the registered property owner. Clearly the purpose of these measures is to ensure that the arbitration process is not abused and that there is a symmetry between the infraction and the penalty. Finally, the *Residential Tenancy Act* should be modified so that home owners in a manufactured home park can initiate a class action.

5.2.1 Recommendation

Financial penalties for violations of the *Residential Tenancy Act* should reflect the severity of the violation.

Where the arbitration process is activated as a result of a decision of the Mediation and Dispute Resolution Committee, all costs for the Committee ruling and the arbitration should be paid by the losing party of the arbitration.

The *Residential Tenancy Act* should be modified so that home owners in a manufactured home park can initiate a class action.

5.3 Rent Review

Rent controls were the most widely discussed issue in the review. While many home owners advocate a formal rent control policy, the United Manufactured Home Owners and the Manufactured Home Park Owners Associations recognized that across-the-board rent controls do not meet anyone's needs and that a ceiling for rent increases quickly becomes a floor. At the same time, there is a recognition that there has to be a mechanism to review unreasonable rent increases. Rent increase guidelines should be established to ensure both the legitimate right of the park operator to realize a return on investment and at the same time allow tenants some security from excessive increases since pad renters cannot simply move without incurring substantial cost and inconvenience. The Mediation and Dispute Resolution Committee should establish the guidelines for rent increases as well as review unreasonable rent increases. With this review there should be the provision for the enforcement of decisions.

5.3.1 Recommendation

The Mediation and Dispute Resolution Committee should be recognized in the *Residential Tenancy Act* as the first stage to review pad rent increases in manufactured home parks and decisions made by this Committee should be enforceable under the Act.

5.4 Standard Lease/Rental Agreements

A plain language standard lease used in all manufactured home parks in British Columbia noting which services were included in the rental would do more for the protection of both home owners and park operators than any other single change. A standard agreement would establish service benchmarks. Longer-term lease provisions could be incorporated into this standardized form. The Residential Tenancy Branch 'sample lease' should be used as the model for this process with the consultation and full participation of the Provincial park and home owner associations.

5.4.1 Recommendation

A plain language standard lease should be used in all manufactured home parks in British Columbia.

5.5 Standard Park Rules

Like the aforementioned standardized lease, a standardized set of plain language park rules is needed. Before there can be any chance of a consistent application of park rules, there must be general agreement as to the reasonableness of the rules governing activity in the parks. Rules are set for the protection of both individual and collective rights and freedoms. There should be a park-specific approval process where the majority of tenants in a park can establish and/or change existing rules so long as the rule in question is within the established province-wide standard.

5.5.1 Recommendation

There should be a park specific approval process where the majority of tenants in a park can establish and/or change existing rules so as to conform to a Provincial plain language standard park rules as proposed by the Mediation and Dispute Resolution Committee.

5.6 Park Improvement Costs

Related to rent review, park improvement costs should be addressed specifically. Each park, depending on age and condition, requires different levels of improvements. A major concern to both home owners and park operators is how the costs of park improvements are to be paid for. In most businesses, capital costs are amortized over time. In manufactured home parks, however, this has not always been the practice. To avoid radical increases in monthly pad rent as well as to recognize that common area improvement costs must be addressed, and

to avoid the bookkeeping and administration involved in the inclusion and removal of an amortized surcharge on rent for a fixed period, no more than 1% of the total cost of the capital improvement expense should be placed on the monthly rental charge.

5.6.1 Recommendation

No more than 1% of the total cost of a capital improvement expense should be placed on the monthly rental charge.

5.7 Development/Entrance Fees

There was much discussion of development fees at the public hearing, and the issue was also addressed in a number of written submissions. There is a capital cost involved in developing additional pad sites. There has been a practise for the initial pad renter to pay this fee directly rather than amortize the cost in perpetuity on pad rent. Development or entrance fees are a one-time only fee that is charged when a new site is developed or the actual service is upgraded. There is in practice a recognition that this one-time fee is effectively transferred to the new purchaser of an existing home in a park. What is not explicit, however, is the practice of refunding the initial development or entrance fee to the tenant or subsequent tenant if a park closes.

The joint submission of the British Columbia Manufactured Home and Park Owners Associations suggests that the Provincial government pay a development fee to a private developer who will make sites available for older manufactured homes. While this would act as an incentive for the development of older home

parks in some areas, it would in practice be an exclusive subsidy for one group of pad renters that is not available to other pad renters.

5.7.1 Recommendation

The *Residential Tenancy Act* should be amended to note that development or entrance fees are a one-time only charge and to ensure that if a manufactured home park is converted to another land use, then the initial development or entrance fee be refunded to the manufactured home owner occupying the space at the time of conversion.

The Provincial government should not become directly involved in offering a development fee subsidy program to private developers of manufactured home parks.

5.8 Security of Tenure

The uncertainty caused by any moves towards park termination or conversion to another land use is perceived as the single largest threat to a manufactured home owner. Given the scarce supply of rental pad sites in many communities across British Columbia, park conversion will not only place great financial hardship on owners but also, in some cases, literally leave them no place to relocate their homes. Associated issues include what constitutes adequate notice, when does the notice take effect, and what compensation, if any, is due the home owner if their park is converted. In areas of the Province where there is a surplus of pads for rent, (Prince George, Quesnel, etc.) security of tenure is not an issue. In areas where there is limited supply (the lower mainland, etc.), the issue becomes

paramount in the minds of the home owners. While the rights of property owners to use their land as they see fit should not be unreasonably restricted, there must be a mechanism to protect home owners who have a substantial investment in their current park. Two private member bills introduced in the Legislature of British Columbia over the last few years deal specifically with the need to protect the home owners by providing for financial compensation of up to $10,000 for moving expenses. This view is also supported by the United Manufactured Home Owners and the Manufactured Home Park Owners Associations.

5.8.1 Recommendation

Manufactured home park owners must give a minimum of 365 days notice of termination on conversion of an existing park to another use.

Termination notice may not be served until all local government zoning and approval permits have been obtained.

Financial compensation of up to $10,000 for actual and reasonable moving costs incurred should be paid to the home owner by the park owner upon termination of park use or conversion to another land use.

5.9 Disclosure Requirements

There were two separate disclosure issues noted in the review. The first revolved around disclosure and representations made by those involved in the sale of a manufactured home, while the second dealt with the disclosure to tenants and prospective tenants of existing manufactured home parks. While there was some

concern expressed over the apparent collusion of some manufacturers, dealers and park operators, the industry has clearly become more professional. There is no indication that this professionalism should not continue. The major issue about disclosure is the current status of a manufactured home park. There was an instance where tenants were unaware that they were living in a manufactured home park which was zoned for industrial use.

5.9.1 Recommendation

The *Residential Tenancy Act* should be amended to ensure that tenants of manufactured home parks are notified of the zoning category of their park when entering into a lease rental agreement.

5.10 55 Years and Older Parks

The Provincial government has to balance the protection of human rights (no discrimination based on age sex or family status) as outlined in the *Charter of Rights* in the *Canadian Constitution* and the rights of senior citizens to live in parks that exclude families with children. Furthermore, when one considers that if a home in a 'seniors park' comes up for sale, effectively families with children are excluded. This limits the potential sales market for the owner and prejudices the options available to young families in a market segment that they can afford. There should be a procedure in place to allow for residents in large parks, in consultation and agreement with the owner, to set a portion of the park aside for 55 years and older while also making provision for families with children. While this 'mixed' park option works in many manufactured home parks in British Columbia, it will not necessarily work in seniors-only parks or in small complexes

where the scale of the complex prevents this division. Without this provision, however, there will be no chance of moving towards a more progressive utilization of pad allocations while taking into consideration the rights of park operators, and individual home owners, whether they be seniors or young families with children.

5.10.1 Recommendation

The *Residential Tenancy Act* should be amended to ensure that there be a procedure in place to allow for residents in large parks, in consultation and agreement with the owner, to set a portion of the park aside for 55 years and older while also making provision for families with children.

5.11 Right to Sell/Rent Homes

Another major issue of concern in this review was ensuring that home owner and landlord rights are not mutually exclusive. In practice, the mere threat of an objection from a landlord can place a prospective sale in jeopardy. Furthermore, the onus is placed on the home owner to find a buyer/renter who will please the landlord. Home owners feel disadvantaged. Unfortunately, the existing provisions of the Act place the onus to prove unsuitability on the landlord and there is in practice little more that can be done legislatively. Manufactured home and park owner associations should work jointly to clearly identify what constitutes unsuitability of a prospective tenant. This identification of criteria should go a long way towards making an arbitrary practice in past become more flexible and protective of both home owner and park owner rights.

5.11.1 Recommendation

The Mediation and Dispute Resolution Committee should work jointly to clearly identify what constitutes unsuitability of a prospective tenant.

5.12 Co-operative and Strata Title Developments

Co-operative and then strata title developments are viewed by most participants to this review as being the most desirable of all tenure options available. There are, however, financial obstacles seen by the proponents for this tenure option. While many review participants wanted the right of first refusal on the sale of private land or access to Crown and Agricultural Land Reserve land, the self-financing of these projects seems, at best, elusive. While each 'project' must be evaluated on its own merits, the Capital Tax for Co-operative Development is viewed by many to be an unreasonable burden. Furthermore, the institutional prejudice of the banking industry towards manufactured homes makes the raising of private money extremely difficult. Government loan guarantees are seen as a way to facilitate the expansion of this type of tenure. Unfortunately, Crown land availability does not correspond well to areas where the demand for manufactured home parks is greatest. If Crown land were available and deemed suitable for development as a co-operative manufactured home park, there remain concerns that the land should not be sold, but rather leased to the development, and then revert back to the Crown if there were a change in land use.

5.12.1 Recommendation

The requirement for the Capital Tax for Co-operative Development should be reviewed by the Ministry of Finance and Corporate Relations.

An inventory of available Crown land suitable for manufactured home park development should be undertaken in regions of the Province where rental pad demand is great.

The Ministry of Finance and Corporate Relations should study the benefits and costs of providing government loan guarantees for the creation of co-operative manufactured home parks.

5.13 Shelter Aid for Elderly Renters (S.A.F.E.R.)

From the onset of this review, it became clear that many seniors preferred living in manufactured homes located in manufactured home parks because of cost, security, sense of community, etc. Of concern to many seniors was the increased cost of pad rental which, over time, would financially push them out of this housing alternative. The existing S.A.F.E.R. program addresses the rising cost of rental accommodation to many seniors in the Province, but it is not at present applicable to manufactured home owners.

Pad rental fee increases are reaching a point which can cause hardship for seniors on fixed incomes. The expansion of the existing S.A.F.E.R. program to include manufactured home owners whose monthly pad rent exceeds 30% of their

income would allow many seniors to remain in their homes. In addition to 89 specific requests, both the United Manufactured Home Owners and the Manufactured Park Owners Associations endorse the inclusion of manufactured home owners in this Provincial program.

5.13.1 Recommendation

The S.A.F.E.R. program should be extended to include manufactured home owners whose pad rent is in excess of 30% of their income.

5.14 Renters Tax Credit

Many home owners felt that they were being discriminated against because of the unique situation manufactured home owners are placed in vis-a-vis the *Residential Tenancy Act*. While they recognize their unique situation as both a renter and an owner, they are concerned that tax credits available to all other renters are not available to them.

5.14.1 Recommendation

The British Columbia Renters Tax Credit program should be extended to manufactured home owners who rent pads.

5.15 Reverse Mortgages

Some participants felt that a government sponsored reverse mortgage scheme would be of further assistance to elderly manufactured home residents on limited

incomes. This type of program fits the needs of many seniors who find that all their capital is invested in their dwelling and that they do not have the finances to meet regular expenses. Such a program would, however, have implications for other areas of public policy. There is, therefore, no recommendation here to pursue this initiative further.

5.15.1 Recommendation

The Government should not get involved in a reverse mortgage scheme for elderly manufactured home residents at this time.

5.16 Native Land Issues

Home owners situated in manufactured home parks on native land feel that they have limited protection under the *Residential Tenancy Act*. There is no provincial legislative relief for these home owners as the majority of issues are beyond the scope of Provincial statute. Unless native groups with 'park land' voluntarily accept and defer to the rules and regulations of the *Residential Tenancy Act* as proposed most recently by the West Bank Band in the Okanagan, there is little that can be accomplished by provincial legislation.

5.16.1 Recommendation

The Ministry of Aboriginal Affairs, the Federal Government and the aboriginal community should be encouraged to discuss ways and means for manufactured home owners who reside on native land to be fully protected by the *Residential Tenancy Act* without infringing on the rights of native self government.

5.17 Separate Act and One Ministry

Given the number of ministries involved and the numerous acts applicable to the manufactured home group, there is a general consensus that one Ministry should administer most legislation pertaining to manufactured homes. Due to the unique home owner/tenant situation, with the exception of the registry, chattels and mortgages, all other legislation should be administered by one ministry. The ministry chosen should have a regional delivery mechanism.

5.17.1 Recommendation

With the exception of the Manufactured Home Registry, chattels and mortgages, all other legislation should be administered by one ministry.

5.18 Gazette/Notice of Arbitrations

There should be a gazette of arbitration decisions made available for park owners and pad renters alike. It is hoped that this formalized notice of ruling affecting manufactured home parks in conjunction with a standardized rental agreement and the creation of the Mediation and Dispute Resolution Committee will greatly reduce abuses and the frequency of arbitrations.

5.18.1 Recommendation

There should be a gazette of arbitration decisions made available for park owners and pad renters.

5.19 Automation of the Manufactured Home Registry

Notwithstanding the potential cost savings to government, file security, and the development of a management information system, there should be an analysis done on the location and changes in supply of rental pad sites over-time. Without the Manufactured Home Registry going on line, it would be financially prohibitive to conduct this type of analysis.

5.19.1 Recommendation

The Manufactured Home Registry should be automated to facilitate computer analysis and the development of a management information system.

5.20 Creation of a Current List of Parks and Rental Pads

Without a complete and accurate list of existing manufactured home parks and the number of rental pads available in each park, any further analysis of this housing market segment will be counterproductive. There are twice as many rental pad sites estimated to be in operation in British Columbia as can be specifically identified.

5.20.1 Recommendation

The British Columbia Assessment Authority should create a list of existing rental parks and pad sites for rent available noting names and addresses of current owners.

5.21 Residential Tenancy Branch Pamphlet

A pamphlet noting rights, rules and responsibilities for manufactured park and home owners would be desirable especially if there are legislative changes to provide for standardized leases, park rules, and the creation of the Mediation and Dispute Resolution Committee.

5.21.1 Recommendation

If there are changes to the *Residential Tenancy Act* a pamphlet noting rights, rules and responsibilities should be created.

5.22 Zoning

Local government zoning of manufactured home parks was seen by many in this review to be counterproductive to the development of manufactured home parks in British Columbia. Often conflicting rules apply to the same pad site depending on which level of local government is involved. The simple solution is to have the Ministry of Municipal Affairs set standard by-law and zoning rules, and use the *Municipal Act* to have municipalities and regional governments conform to this standard.

5.22.1 Recommendation

The Ministry of Municipal Affairs should set standard by-law and zoning rules and use the *Municipal Act* to have municipalities and regional governments conform to this standard.

5.23 Security Deposit

Security deposits were discussed at public meetings and mentioned in many submissions, but were not viewed as a major issue. One could argue that security deposits are redundant as the home owner has in many cases contributed more to the physical improvement to the pad site than the owner. Rather than eliminating security deposits entirely, however, the interest accrued from security deposits could be used to partially offset the cost of the Mediation Dispute Resolution Committee.

5.23.1 Recommendation

The Ministry of Labour and Consumer Services should do an analysis of security deposits and either eliminate them entirely or define a mechanism to use the interest accrued from security deposits from manufactured homes to offset the cost of the Mediation Dispute Resolution Committee.

6. Conclusion

During this review, the overall theme was to address the unique situation that affect manufactured home owners located on rental sites. Manufactured home owners have a substantial investment in the rental site and, therefore, this limits their freedom of choice. The largest problem most park and home owners face is a clear definition of roles, responsibilities and rights of each party. It was the intent of this review to clearly identify the roles and responsibilities of each party as well as to offer practical solutions to unique problems faced by home and park owners.

6.1 Recommendations

This review makes the following recommendations:

- The Mediation and Dispute Resolution Committee should be recognized in the *Residential Tenancy Act* as the first step towards resolving disputes between manufactured home owners and manufactured home park owners.
- Financial penalties for violations of the *Residential Tenancy Act* should reflect the severity of the violation.
- Where the arbitration process is activated as a result of a decision of the Mediation and Dispute Resolution Committee, all costs for the Committee ruling and the arbitration should be paid by the losing party of the arbitration.
- The *Residential Tenancy Act* should be modified so that home owners in a manufactured home park can initiate a class action.
- The Mediation and Dispute Resolution Committee should be recognized in the *Residential Tenancy Act* as the first stage to review pad rent increases in manufactured home parks and decisions made by this Committee should be enforceable under the Act.

- A plain language standard lease should be used in all manufactured home parks in British Columbia.

- There should be a park specific approval process where the majority of tenants in a park can establish and/or change existing rules so as to conform to a provincial plain language standard park rules as proposed by the Mediation and Dispute Resolution Committee.

- No more than 1% of the total cost of a capital improvement expense should be placed on the monthly rental charge.

- The *Residential Tenancy Act* should be amended to note that development or entrance fees are a one-time only charge and to ensure that if a manufactured home park is converted to another land use, then the initial development or entrance fee is refunded to the manufactured home owner occupying the space at the time of conversion.

- The Provincial government should not become directly involved in offering a development fee subsidy program to private developers of manufactured home parks.

- Manufactured home park owners must give a minimum of 365 days notice of termination on conversion of an existing park to another use.

- Termination notice may not be served until all local government zoning and approval permits have been obtained.

- Financial compensation of up to $10,000 for actual and reasonable moving costs incurred should be paid to the home owner by the park owner upon termination of park use or conversion to another land use.

- The *Residential Tenancy Act* should be amended to ensure that tenants of manufactured home parks are notified of the zoning category of their park when entering into a lease rental agreement.

- The *Residential Tenancy Act* should be amended to ensure that there is a procedure in place to allow residents in large parks, in consultation and agreement with the owner, to set a portion of the park aside for 55 years and older while also making provision for families with children.

- The Mediation and Dispute Resolution Committee should work jointly to clearly identify what constitutes unsuitability of a prospective tenant.

- The requirement for the Capital Tax for Co-operative Development should be reviewed by the Ministry of Finance and Corporate Relations.

- An inventory of available Crown land suitable for manufactured home park development should be undertaken in regions of the Province where rental pad demand is great.

- The Ministry of Finance and Corporate Relations should study the benefits and costs of providing government loan guarantees for the creation of co-operative manufactured home parks.

- The S.A.F.E.R. program should be extended to include manufactured home owners whose pad rent is in excess of 30% of their income.

- The British Columbia Renters Tax Credit program should be extended to manufactured home owners who rent pads.

- The Government should not get involved in a reverse mortgage scheme for elderly manufactured home residents at this time.

- The Ministry of Aboriginal Affairs, the Federal Government and the aboriginal community should be encouraged to discuss ways and means for manufactured home owners who reside on native land to be fully protected by the *Residential Tenancy Act* without infringing on the rights of native self government.

- With the exception of the Manufactured Home Registry, chattels and mortgages, all other legislation should be administered by one ministry.

- There should be a gazette of arbitration decisions made available for park owners and pad renters.

- The Manufactured Home Registry should be automated to facilitate computer analysis and the development of a management information system.

- The British Columbia Assessment Authority should create a list of existing rental parks and pad sites for rent available noting names and addresses of current owners.

- If there are changes to the *Residential Tenancy Act* a pamphlet noting rights, rules and responsibilities should be created.

- The Ministry of Municipal Affairs should set standard by-law and zoning rules and use the *Municipal Act* to have municipalities and regional governments conform to this standard.

- The Ministry of Labour and Consumer Services should do an analysis of security deposits and either eliminate them entirely or define a mechanism to use the interest accrued from security deposits from manufactured homes to offset the cost of the Mediation Dispute Resolution Committee.